

REMARKS

Preliminary Matters

Applicants note that the Examiner has indicated consideration of the reference submitted with the Information Disclosure Statement of December 16, 2003.

Applicants also note that acknowledged the claim to foreign priority and has acknowledged receipt of a certified copy of the priority document.

Objection to the Drawings

The Examiner has objected to the drawings and has alleged that a computer 44 is mentioned in the specification, but is not included in the drawings.

Applicants submit that a computer 44 is shown in Fig. 6 of the application. Applicants accordingly request the Examiner to withdraw the objection.

Objection to the Specification

The Examiner has objected to line 9 on page 15 of the specification and alleges that the limitation "a fixed level or more" has no antecedent basis. Applicants amend the specification to change "the accuracy" to "an accuracy" as shown in the Amendments to the specification section. Applicants accordingly request the Examiner to withdraw the objection.

Claims

Claims 1-15 are all the claims originally pending in the application. Claims 1-15 have been rejected.

Objection to the Claims

The Examiner has objected to the claims for minor informalities. Applicants have amended some of the claims and respectfully request the Examiner to withdraw the objection.

Applicants do not agree with some of the claim objections raised by the Examiner.

With respect to claim 5, “an image in which the pupil region corresponding to the pupil of an eye of a human subject and having undesirable color tone exists” is different from “an image to be processed”. With respect to claim 5, the Examiner suggests that “a photographing” should be changed to “the photographing”. Applicants submit that a photographing device whose image is to be processed can be the same or different from a photographing device, the information of which is stored in the storage component. In view of the above, Applicants respectfully request the Examiner to withdraw the objection.

With respect to claim 10, the Examiner suggests that “a correction parameter” should be changed to “the correction parameter”. Applicants have amended claim 10 for further clarification.

35 U.S.C. § 101 Rejections

The Examiner has rejected claims 14-15 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Applicants have amended claim 14 and respectfully request the Examiner to withdraw the rejection.

35 U.S.C. § 112 Rejections

The Examiner has rejected claim 8 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that the limitation “fixed level or more” is not sufficiently described in the specification.

Applicants submit that the above limitation is sufficiently described at least on page 38 of the specification. The first full paragraph on page 38 teaches that a determination of the precision of the red-eye historical information can be made based on a “total number of images”,

“total number of images that have been subjected to red-eye correction”, etc in the red-eye historical information being greater than or equal to a predetermined value.

Accordingly, Applicants request the Examiner to withdraw the rejection.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-3, 5-6, and 8-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kito (US 6,628,899), hereinafter “Kito”, in view of Enomoto (US Pub. 2003/0142285), hereinafter “Enomoto”.

For at least the following reasons, Applicants traverse the rejections.

Applicants submit a verified English translation of the priority document JP 2003-40888 whose Japanese filing date is February 19, 2003, thereby perfecting priority. Applicants also note that the effective filing date (February 19, 2003) of the Japanese priority document is prior to the U.S. publication dates of both Kito (September 30, 2003) and Enomoto (July 31, 2003). Therefore, Kito and Enomoto can only serve as prior art against the pending claims under 35 U.S.C. § 102(e). However, under 35 U.S.C. § 103(c), Kito and Enomoto may be removed as a prior art reference because Kito, Enomoto and the instant application were under common obligation of assignment, to FUJI PHOTO FILM, CO., now known as FUJIFILM CORP, at the time of invention.

Thus, Applicants respectfully request that Kito and Enomoto be removed as prior art references against the pending claims, and that the 103 (a) rejection of claims 1-3, 5-6, and 8-12 be withdrawn.

Claims 4, 7, and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kito and Enomoto as applied to claims 1, 5, and 9, and further in view of Sannoh et al. (US Pub. 2003/0071908), hereinafter “Sannoh”.

As discussed above, Kito and Enomoto cannot serve as prior art references against the subject claims. Therefore, Applicants request the Examiner to withdraw the 103(a) rejection of claims 4, 7, and 13.

Claims 14-15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kito in view of Marni (US 6,285,410), hereinafter "Marni".

As discussed above, Kito cannot serve as a prior art reference against the subject claims. Therefore, Applicants respectfully request the Examiner to withdraw the 103(a) rejection of claims 14 and 15.

New Claims

Applicants add new claims 16-18. Applicants submit that these claims are not taught or even suggested by the prior art of record.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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